



MONTANA LEGISLATIVE BRANCH

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DATE: June 3, 2004

TO: Legislative Finance Committee

FROM: Taryn Purdy

RE: 2005 Biennium Budget Spending "Pressure Points"

There are several areas of continuing and new concern in the 2005 biennium that could result in cost overruns in the 2005 biennium.

- 1) Judiciary – There has been no significant change in the status of the Judiciary's current expenditures for the District Court Assumption Program, which is still expending at a rate significantly above the 2005 biennium appropriation. At current levels of expenditure and without further mitigation efforts or other slowdowns in the rate of expenditure, the Judiciary could exceed its appropriation by as much as \$4.8 million to \$5.8 million over the biennium. Harry Freebourn has provided the Legislative Finance Committee with an update of his March 2004 report entitled "District Courts Statewide Assumption Project".
- 2) Fire Costs – As stated in past fire cost reports by Gary Hamel, the Governor has stated that federal Jobs and Growth Tax Reconciliation Act of 2003 funds (\$50.0 million over the biennium) not allocated to other uses would be used to pay fire costs. As of the March meeting, the amount anticipated to be available for fiscal 2005 fires was over \$7 million. However, state fire costs in fiscal 2004 have been revised upward, and the total available for fire costs in fiscal 2005 is now between \$3.7 million and \$5.2 million. This figure is significantly below both the five year running average of \$7.045 million, and cost experience in the last three years of an average \$16.6 million (including fiscal 2004 to date). For a further discussion of fire costs, see the report entitled "DNRC Fire Cost Report" by Gary Hamel.
- 3) Corrections – Corrections remains a concern in the 2005 biennium due to prison population pressures and limited physical capacity options, as well as limited options for significantly reducing the populations. The Office of Budget and Program Planning has stated it will transfer \$906,256 (\$606,256 of which is state special revenue and the remainder general fund) of the personal services contingency fund¹ to the department to assist with personal services costs². As a result, expenditures should remain within the adjusted fiscal 2004 appropriation. However, at this point in time and assuming

¹ As part of HB 13 (the pay plan bill) the legislature appropriated \$1.5 million general fund and \$3.0 million other funds over the biennium to assist agencies that had higher personal services expenditures than budgeted. The director of the Office of Budget and Program Planning controls the allocation of the funds.

² As of this writing, the budget change documents necessary to transfer these funds had not yet been processed.

continuation of current conditions, expenditures could exceed the appropriation by as much as \$3.0 million in fiscal 2005.

- 4) K-12 Education – As reported in the December meeting, K-12 education will require a supplemental appropriation in the 2005 biennium due to two main factors: 1) higher student ANB counts, as well as lower carryover funds; and 2) lower interest and income collections than anticipated. There is no change from the March estimate of \$7.9 million.
- 5) Payback Of Workers' Compensation To The Federal Government – When the legislature required the transfer to the general fund of workers' compensation "old fund" balance in the August 2002 Special Session and the 2003 legislative session (\$23.1 million total has been transferred), concern was expressed that the federal government would require a payback from the state equal to the approximate amount of the federal funds portion of the transferred amount³. As of this writing the state is in communication with the federal government as to how much the state will be required to repay the federal government. While discussions are in the early stages, and it is unknown both: 1) how much the federal government will require in reimbursement; and 2) whether the reimbursement will be made in fiscal 2005 or fiscal 2006, the Department of Administration has unofficially estimated a minimum of \$400,000 may be owed.
- 6) Payouts for Exempt Elected Officials Staff/Agency Directors – Both agency director and exempt elected officials staff frequently turn over following elections. When these incumbent individuals leave state employment, they are entitled to payouts of accrued annual leave (100 percent up to a maximum number of hours) and sick leave (25 percent). Agencies are not budgeted for this kind of contingency, and payouts have been funded in the past through a combination of agency absorption and supplemental appropriations. It is unknown at this time how many or which directors and exempt elected official staff will be leaving and consequently the cost of payouts. In the 2003 biennium, a total of \$118,520 (\$76,888 in the Governor's Office and \$41,632 in the Department of Justice) was appropriated, with the remainder of all costs absorbed by the agencies.
- 7) Major Litigation – The legislature provides a restricted, biennial appropriation of just under \$400,000 of general fund to the Department of Justice to fight major court cases on the state's behalf. As of June 1, the agency had expended \$329,897, or over 82 percent of the entire biennial appropriation. While there are currently no further major cases, the program could face a shortfall in the next fiscal year.

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³ The federal government reasons that if a surplus exists, it means that excess costs were paid. Because the federal government supports a portion of personal services costs, and consequently of related workers' compensation expenses, it is entitled to a portion of the "excess" balance.